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PTO/SB/33 (07-05)

United States Patent & Trademark Office; U.S. DEPARTMENT OF COMMERCE

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 58268.09059
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed Name _____	Application Number: 09/714,273 Filed: November 17, 2000 First Named Inventor: Govind MALALUR Art Unit: 2164 Examiner: Sana A. Al Hashemi

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

Applicant/Inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under
37 CFR 3.73(b) is enclosed

☒

Attorney or agent of record.

Registration No. 45,689

☐

Attorney or agent acting under 37 CFR 1.34.

Reg. No. is acting under 37 CFR 1.34 _____

Signature

N. Alexander Nolte

Typed or printed name

703-720-7894

Telephone number

January 18, 2006

Date

NOTE: Signatures of all of the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐

*Total of _____ forms are submitted.



**NOTICE OF APPEAL FROM
THE PRIMARY EXAMINER TO THE BOARD OF APPEALS**

In re application of: Govind MALALUR

Serial No.: 09/714,273

Group Art Unit: 2164

Filed: November 17, 2000

Atty. Docket No.: 58268.09059

For: TABLE LOOKUP MECHANISM FOR ADDRESS RESOLUTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

January 18, 2006

Sir:

Applicant hereby appeals to the Board of Appeals from the decision dated October 18, 2005 of the Primary Examiner finally rejecting Claims 1-15.

The item(s) checked below are appropriate:

1. ☐ A petition for an extension of time to respond to the final rejection was filed on _____ for _____ month(s).
2. ☒ A timely response to the final rejection has been filed, as provided in 841 O.G. 1411.
3. ☒ Fee \$500.00 or ☐ Small Entity \$250.00

☒ Check No. 13929 is enclosed.

☐ Charge to Counsel's Deposit Account No. 50-2222. An additional copy of this Notice is enclosed.

In the event that this paper is not considered to be timely filed, applicant hereby petitions for an appropriate extension of time. The fee for this extension may be charged to Counsel's Deposit Account No. 50-2222, along with any other additional fees which may be required with respect to this paper.

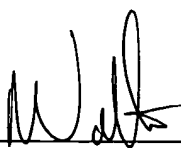
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SQUIRE, SANDERS & DEMPSEY LLP

Signature



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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Govind MALALUR

Art Unit: 2164

Application No.: 09/714,273

Examiner: Sana A. Al Hashemi

Filed: November 17, 2000

Attorney Dkt. No.: 58268.09059

For: TABLE LOOKUP MECHANISM FOR ADDRESS RESOLUTION

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

January 18, 2006

Sir:

In accordance with the Pre-Appeal Brief Conference Pilot Program guidelines set forth in the July 12, 2005 Official Gazette Notice, Applicants hereby submit this Pre-Appeal Brief Request for Review of the final rejections of claims 1-15 in the above identified application. Claims 1-15 were finally rejected in the Office Action dated October 18, 2005, Applicants filed a Response to the Final Office Action on December 2, 2005, and the Office issued an Advisory Action dated December 28, 2005 maintaining the final rejections of claims 1-15. Applicants hereby appeal these rejections.

Applicants respectfully submit that a *prima facie* case supporting the rejection of claims 1-15 under 35 U.S.C. §103 has not been established, and that there is clear error in the rejections.

Clear Error Interpreting the Prior Art and Establishing *Prima Facie* Obviousness

Applicants submit that there is clear error in the interpretation of the cited prior art supporting the rejections of claims 1-15.

Specifically, claims 1, 2, 4-9, and 11-15 were rejected under §103(a) over *Spinney* and *Douceur*, and claims 3 and 10 were rejected under §103(a) over *Spinney*, *Douceur*, and *Moreton* in the Final Office

Action dated October 18, 2005. The three independent claims in the present application, claims 1, 8, and 15, are covered by this rejection. Each of these claims recites that data packet is parsed into an index portion and a bucket portion, the index portion is directly indexed into the corresponding bucket portion, and the bucket portion is used to access information stored in an address lookup table.

The Final Office Action took the position that *Spinney* taught each element of independent claims 1, 8, and 15, except for the limitation of directly indexing the index portion of the data packet into the bucket portion of the data packet. However, the Office Action noted that *Douceur* “refers to indexing, directly, said index portion to said corresponding bucket portion” at column 18, lines 21-26. Applicants submit that the Office Action’s interpretation of *Spinney* and *Douceur* is clearly erroneous with regard to two elements expressly recited in Applicants’ claims.

First, Applicants submit that *Spinney* does not teach “parsing said data packet into an index portion and a corresponding bucket portion,” as recited in independent claims 1, 8, and 15. The Office Action cites to column 6, lines 17-21 as teaching the parsing of the index portion, and to lines 50-58 as teaching the parsing of the bucket portion, however, Applicants submit that careful review of these sections of *Spinney* does not support the Office Action’s conclusion. Lines 17-21 teach that an inbound receive process parses and decodes the incoming packet, places the packet data into a FIFO, and performs some processing steps to determine if the packet is to be forwarded to a crossbar. Lines 50-58 teach that an inbound transmit process services queues in a packet memory that contains packets to be transmitted to the crossbar switch. When an enabled queue has a packet count greater than one, the inbound transit process will begin processing of the packet by initiating packet memory requests to move data from the packet memory to an internal FIFO.

Although “parsing” of a packet is mentioned generally at lines 17-21, there is no teaching of parsing a data packet into an “index portion” and “a corresponding bucket portion” anywhere in lines 17-21 or 50-58. Applicants submit that the mere mentioning of a “parsing” process in *Spinney* clearly does not support the Office Action’s conclusion that *Spinney* teaches that a data packet is parsed into an index

portion and a corresponding bucket portion. (See, Applicants' Response filed on December 2, 2005, pages 4 and 5; and Applicants Response filed on September 1, 2005, pages 5-6.) Rather, this conclusion at best constitutes impermissible hindsight reconstruction of Applicants invention. (See, Applicants' Response filed on September 1, 2005, pages 6-7.) Therefore, since the Office Action has erroneously relied upon *Spinney* as teaching the expressly recited claim limitations (the parsed index portion and corresponding parsed bucket portion), Applicants submit that the Office Action has failed to properly interpret the cited prior art and to properly support a *prima facie* obviousness rejection. As such, Applicants submit that there is clear error in the interpretation of the cited references and in establishing a *prima facie* obviousness rejection. Reconsideration and withdrawal of the rejection is respectfully requested.

Second, Applicants submit that *Douceur* does not teach "indexing, directly, said index portion to said corresponding bucket portion." The Office Action cites to column 18, lines 21-26 of *Douceur* as teaching this claim limitation, however, careful review of this section does not support this conclusion. More particularly, lines 21-26 of *Douceur* are directed to a pointer array with pointers corresponding to hash table segments. Once a scan of the bit values determines which segment contains the pointer to the appropriate list, the array can be directly indexed by that value to provide a pointer to the appropriate segment. However, the pointer array of *Douceur* is not a portion of a packet that is directly indexed into another parsed portion of a packet, *i.e.*, the index portion parsed from a packet that is indexed into a bucket portion parsed from a packet, as recited in Applicants' claims. (See, Applicants' Response filed on September 1, 2005, pages 5-6.) Applicants submit that there is no support within the cited sections of *Douceur* for teaching the recited claim limitation of directly indexing an index portion parsed from a data packet into a corresponding bucket portion parsed from the same data packet. Therefore, since the Office Action has erroneously relied upon *Douceur* as teaching the expressly recited claim limitations (indexing, directly, said index portion into said corresponding bucket portion), Applicants submit that the Office Action has failed to both properly interpret the cited prior art and to properly support a *prima facie*

obviousness rejection. As such, Applicants submit that there is clear error in the interpretation of the cited references and in establishing a *prima facie* obviousness rejection. Reconsideration and withdrawal of the rejection is respectfully requested.

Further, Applicants submit that even if *Spinney* and *Douceur* were somehow combined, they would not combine to form a system that would teach, show, or suggest each and every limitation recited in the rejected claims. More particularly, the claimed invention is directed to parsing a data packet into first and second portions, and then directly indexing the first portion into the second portion. The pointer array in *Douceur* is not a portion of a data packet; rather, the pointer in *Douceur* is directed to expansion or contraction of a hash table. If *Spinney* and *Douceur* were combined, the teaching of *Douceur* might be used to change the use and formation of the hash table in *Spinney*; however, the remainder field (noted as 97 in *Spinney*) is still not taught, shown, or otherwise suggested as being used to directly index the parsed index portion of a data packet into a corresponding parsed bucket portion of the data packet. (See, Applicants' Response filed on September 1, 2005, page 6.) Therefore, Applicants submit that there is a clear error in the combination of the cited references in support of the obviousness rejection. Reconsideration and withdrawal of the rejection is respectfully requested.

Finally, Applicants submit that it was a clear error to combine the cited references, and there is no motivation for one of ordinary skill in the art to make the combination and there is no teaching in the references themselves that suggests the combination of the references, as asserted in the Office Action. More particularly, Applicants submit that there is no teaching within the references themselves or within the knowledge of one of ordinary skill in the art to combine the pointer array processing of *Douceur* with the address table lookup process of *Spinney*. The two processes are distinct and not combinable. As such, Applicants submit that the combination of these references in the Office Action constitutes impermissible hindsight reconstruction of Applicants invention. (See, Applicants' Response filed on September 1, 2005, page 7.) As such, Applicants submit that it was a clear error in the Office Action to combine the references. Reconsideration and withdrawal of the rejection is respectfully requested.

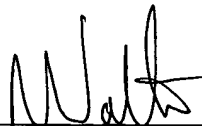
Conclusion

Applicants submit that the Office Action made a clear error in interpreting the references, in determining that there was proper motivation to combine the references, and in combining the references to yield Applicants' claimed invention. Applicants submit that neither *Spinney* or *Douceur* teach, show, or suggest each of the limitations recited in Applicants' independent claims 1, 8, and 15. Further, Applicants submit there is no teaching, suggestion, or motivation to combine the references to yield the invention recited in claims 1, 8, and 15. Finally, Applicants submit that the additional rejection of dependent claims 3 and 10 over the additional reference (*Moreton*) fails to further the teaching of the *Spinney* and *Douceur* to the level necessary to support a rejection of those claims.

Reconsideration and withdrawal of the rejections, in view of the clear errors in the Office Action, is respectfully requested.

In the event this paper is not being timely filed, the applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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Enclosures: Notice of Appeal